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January 13, 2015

VIA ECF

The Honorable Judge Richard J. Sullivan
United States District Judge
Southern District of New York
Thurgood Marshall United States Courthouse
New York, NY 10007

Re.: Jessica L. Wahl v. Sterling & Sterling Inc., et al.
Civil Action No. 15-cv-06522 (RJS)

Dear Judge Sullivan:

Consistent with the Court's Orders, the parties filed the required Case Management Plan and Scheduling Order (the "Plan") in this matter on January 8, 2016 and are scheduled to appear for an initial conference on January 15, 2016.

However, we respectfully suggest that Your Honor may wish to reconsider the present schedule in light of the contents of this letter.

As we noted to the Court in our letter of December 7, 2015, we will be filing an amended complaint. It will be filed by no later than tomorrow.

Please be assured, Judge Sullivan, that the timing of the filing of the amended complaint is not an attempt to gain some tactical advantage, indeed, no advantage flows from its timing, the delay having been unavoidable.

The delay since we advised Your Honor of our intentions, is a consequence of my own health and consequent work pressures flowing from the automobile accident to which I adverted in my letter to the Court on November 22, 2015. Those circumstances, in combination with our client's extremely serious health conditions and difficulty in working with us on the new pleading, made the present timing unavoidable. To the extent that its timing burdens Your Honor, we do apologize.

We also note that in Paragraph 12 of the Plan all parties seek mediation:

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“Counsel for the parties request a settlement conference before the Southern District’s Mediation Program and request Referral to the Southern District’s Mediation Program.

The parties are to contact _____ by

_____.”

As Your Honor is aware, in the ordinary course, by reason of Chief Judge Preska’s Standing Order, all employment litigation matters (other than FLSA claims) are referred to mediation, pursuant to the above identified program. That occurs “automatically” when the answer is filed and the program personnel first became aware of the employment case.

However, as there was no answer filed with respect to the original complaint and obviously none will be filed this week in respect of the amended complaint, it will trespass less upon this Court’s time if the Court does refer this matter to the mediation program on a forthwith basis. This will benefit all concerned including Your Honor’s own calendar.

As a volunteer *pro bono* mediator in the Court’s program, I state somewhat proudly, that over 90% of the matters referred to mediation are resolved at mediation and my own recent experience is to have successfully disposed of matters referred to me in the program.

Given the statistically high likelihood of success, Your Honor’s graciously referring this matter as all the parties have requested, even before issue has been joined, might well serve the needs of the Southern District, Your Honor’s own particular Court and the needs of all the parties.

It may be that such referral to the program, being of a non-standard nature, that a specific order referring the case to the Program might be required.

If Your Honor acquiesces in this suggestion concerning mediation, then perhaps it would be appropriate to adjourn, *sine die*, the conference presently scheduled for Friday, January 15, 2016.

Respectfully submitted,



Martin R. Lee

cc: Alexander D. Widell, Esq. (by email and ECF)
Mercedes Colwin, Esq. (by email and ECF)